



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466

<http://www.epa.gov/region08>  
September 28, 2004

Ref: 8ENF-W

CERTIFIED LETTER 7003-2260-0001-5076  
RETURN RECEIPT REQUESTED

Teton County Commissioners  
c/o Andy Schwartz, Chair  
P.O. Box 3594  
Jackson, WY 83001

Re: Notice of Safe Drinking Water  
Act Enforcement Action against  
Vista Grande  
PWS #5600683

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Barnes Investment Group - Vista Grande LLC and Kris Kever, owner and operator, respectively of the Vista Grande water system, Wilson, Wyoming. This Order requires that this public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The public water system is in violation of 40 C.F.R. §§ 141.21(a), 141.23(d), 141.201, 141.21(g)(2), 141.31(b) for: failure to perform routine monitoring for bacteriological quality, failure to perform routine monitoring for nitrate, failure to provide public notice of the violations, and failure to report SDWA and total coliform violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Gina Andrews at (303) 312-6688.

Sincerely,  
**Melanie L. Pallman for/**  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure (Order)



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REGION 8

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

September 28, 2004

Ref: 8ENF-W

CERTIFIED MAIL LETTER 7003-2260-0001-7778-5069  
RETURN RECEIPT REQUESTED

James E. Barnes, Registered Agent  
Barnes Investment Group - Vista Grande LLC  
705 Sandhill Crane Road  
Wilson, WY 83014

Kris Kever, Operator  
Vista Grande  
2550 Moose Wilson Road  
Wilson, WY 83014

Re: Administrative Order  
Docket No. **SDWA-08-2004-0054**  
PWS ID #5600683

Dear Mr. Barnes and Mr. Kever:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Vista Grande is a supplier of water as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(a), 141.23(d), 141.201, 141.21(g)(2), 141.31(b) for: failure to perform routine monitoring for bacteriological quality, failure to perform routine monitoring for nitrate, failure to provide public notice of the violations, and failure to report SDWA and total coliform violations to EPA.

If you comply with the enclosed Order for a period of at least 24 months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet

does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Included in this package is a public notification template that you can use to fulfill the notification requirements mentioned in the Order.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Gina Andrews at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Andrews at (800) 227-8917, extension 6688, or (303) 312-6688. If you wish to have an informal conference with EPA, you may also call or write Ms. Andrews. If you are represented by an attorney or have legal questions, please have your attorney call Peggy Livingston at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

**MELANIE L. PALLMAN for/**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures  
Order  
Public Notice Template  
SBREFA

cc: Larry Robinson, WY DEQ  
Dr. Karl Musgrave, WDH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF	)	
	)	
Barnes Investment Group -	)	
Vista Grande LLC	)	
Kris Kever, Operator	)	
Vista Grande	)	
Wilson, Wyoming	)	
	)	
Respondents	)	
	)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g)	)	
of the Safe Drinking Water Act,	)	
42 U.S.C. § 300g-3(g)	)	Docket No. <b>SDWA-08-2004-0054</b>
	)	

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The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Barnes Investment Group - Vista Grande LLC and Kris Kever (Respondents) are a limited liability company and an individual, respectively, and therefore a "persons" within the meaning of 40 C.F.R. § 141.2.
2. Respondents own and operate the Vista Grande Water System (the "System"), located in Teton County, Wyoming for the provision to the public of piped water for human consumption.



3. Vista Grande Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and operate a public water system and are therefore "suppliers of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a September 1998 sanitary survey by an agent for EPA, the System is supplied solely by a ground water source consisting of one well operating since November 1977, and serves an average of 215 persons annually through 1 service connection.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.21(a) requires each non-community public water system with an average daily population of less than 1,001 with a ground water source to monitor its water at least once per quarter that the system



serves water to the public to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondents failed to monitor the System's water for contamination by total coliform bacteria during the 3<sup>rd</sup> Quarter (July - September) 2003 and 3<sup>rd</sup> Quarter (July - September) 2002, in violation of 40 C.F.R. § 141.21(a).

## II.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondents last monitored for nitrate in January 2002 but failed to monitor in 2003, in violation of 40 C.F.R. § 141.23(d).

## III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violations of thenational primary drinking water regulations ("NPDWRs"), including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondents have not provided public notice of the noncompliance detailed in the preceding Section I and



II, with the exception of the 3<sup>rd</sup> Quarter 2003 failure to monitor total coliform bacteria violation, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. §141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondents failed to report to EPA instances of noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g) (2).

V.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondents failed to report to EPA instances of noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondents shall comply with the requirement of 40 C.F.R. §



141.21(a) to perform quarterly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

2. Within 30 days of the date of this Order and annually thereafter, Respondents shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

3. No later than 30 days from the effective date of this Order, Respondents must provide public notice of the violation(s) specified under the Findings of Violation in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system and frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other





method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the System discovers the violation.
5. Except where a different reporting period is specified in paragraph 4 above, upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.



6. Reporting requirements specified in this Order shall be provided by certified mail to:

Gina Andrews  
U. S. EPA Region 8 (8ENF-W)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 per day of violation under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District



Court under Section 1414(b) of the Act, 42 U.S.C. §  
300g-3(b) .

4. The effective date of this Order shall be the date of  
issuance of this Order.

Issued this 28<sup>TH</sup> day of September, 2004.

**SIGNED**

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**MELANIE L. PALLMAN FOR/**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE  
REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 28,  
2004.**





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